

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No.: 17-2263(DSD/BRT)

Honora Tremaine Patterson,

Plaintiff,

v.

ORDER

Emmanual Kintu, et al.,

Defendants.

This matter is before the court upon pro se plaintiff Honora Tremaine Patterson's objections to the January 28, 2019, report and recommendation (R&R) of Magistrate Judge Becky R. Thorson. Based on a review of the file, record, and proceedings herein, and for the following reasons, the court adopts the R&R in its entirety.

The court reviews the R&R de novo. See 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3); D. Minn. LR 72.2(b). After a thorough review of the file and record, the court finds that the R&R is well-reasoned and legally correct.

The background of this excessive force case, brought under 42 U.S.C. § 1983, is fully set forth in the R&R, and the court will not repeat it here. Patterson objects to the magistrate judge's recommendation that the court grant defendants' motion for summary judgment and that Patterson's claims be dismissed with prejudice. Specifically, Patterson argues that the magistrate judge showed bias and favoritism toward defendants and made false factual findings in defendants' favor.

To succeed on an excessive force claim under § 1983, Patterson must show that the force used was not "applied in a good-faith effort to maintain or restore discipline" or that it was applied "maliciously and sadistically for the very purpose to cause harm." Hudson v. McMillian, 503 U.S. 1, 6 (1992); see also Irving v. Dormire, 519 F.3d 441, 446 (8th Cir. 2008). Patterson contends that the magistrate judge was biased against him due to his extensive prison disciplinary record. Any mention of Patterson's past disciplinary record in the R&R, however, was used to show that prison officials reasonably believed that the force applied in securing his cell was necessary and administered in a good-faith effort to maintain or restore discipline.

Patterson also argues that the magistrate judge relied on false factual statements and did not view the facts in the light most favorable to him, as the non-moving party. The court disagrees. The court is satisfied that the magistrate judge applied the proper summary judgment standard and relied on facts contained in the record rather than false or unsupported allegations, conclusory statements, or statements contradicted by the record. As a result, the R&R must be adopted.

Accordingly, based on the above, **IT IS HEREBY ORDERED** that:

1. Patterson's objections [ECF No. 110] to the R&R are overruled;
2. The R&R [ECF No. 108] is adopted in its entirety;

3. Defendants' motion for summary judgment [ECF No. 63] is granted; and

4. This matter is dismissed with prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 27, 2019

s/David S. Doty
David S. Doty, Judge
United States District Court